

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY)	
AVERAGE WHOLESALE PRICE)	MDL No. 1456
LITIGATION)	
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THIS DOCUMENT RELATES TO)	CIVIL ACTION: 01-CV-12257-PBS
ALL CLASS ACTIONS)	Judge Patti B. Saris
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)	Chief Magistrate Judge Marianne B. Bowler

**DECLARATION OF STEVE W. BERMAN IN SUPPORT OF
PLAINTIFFS' REPLY TO JOHNSON & JOHNSON GROUP'S
INDIVIDUAL MEMORANDUM IN OPPOSITION TO CLASS CERTIFICATION**

I, Steve W. Berman, hereby declare that:

1. I am an attorney at law, licensed to practice in the State of Washington and admitted *pro hac vice* in this case. I am a member of Hagens Berman LLP, resident in its Seattle, Washington, office and am Co-Lead Counsel for the Plaintiffs in the above-captioned action.

2. This declaration is submitted in support of Plaintiffs' Reply to Johnson & Johnson Group's Individual Memorandum in Opposition to Class Certification.

3. Attached as Exhibit 1 is a true and correct copy the Deposition of Thomas Hiriak dated July 28, 2004. (Pertinent pages only) (**Filed Under Seal**).

4. Attached as Exhibit 2 is a true and correct copy of the Deposition of William Parks dated August 2, 2004. (Pertinent pages only) (**Filed Under Seal**).

5. Attached as Exhibit 3 is a true and correct copy of the Deposition of Robert A. Spurr dated August 12, 2004. (Pertinent pages only) (**Filed Under Seal**).

6. Attached as Exhibit 4 is a true and correct copy of a Memorandum dated December 7, 2000 from Robert G. Savage re: Correspondence from Peter Stark. (MDL-OBI00007628) **(Filed Under Seal)**.

7. Attached as Exhibit 5 is a true and correct copy of the Deposition of John Hoffman dated March 26, 2004. (Pertinent pages only) **(Filed Under Seal)**.

8. Attached as Exhibit 6 is a true and correct copy of a letter dated September 1, 1998 from Ron Krawczyk to Kathy Gutegesell at First Data Bank. (WKH 01029-30) **(Filed Under Seal)**.

9. Attached as Exhibit 7 is a true and correct copy of the Deposition of Christopher Maffie dated August 18, 2004. (Pertinent pages only) **(Filed Under Seal)**.

10. Attached as Exhibit 8 is a true and correct copy of a document titled "Pharmacy Benefit Management (PBM) Segment." (MDL-JAN00032296; pertinent page only) **(Filed Under Seal)**.

11. Attached as Exhibit 9 is a true and correct copy of an internal Ortho Biotech document comparing Procrit & Aranesp. (MDL-OBI00053884) **(Filed Under Seal)**.

12. Attached as Exhibit 10 is a true and correct copy of a Merck Medco contract. (MDL-HCS00020627; pertinent page only) **(Filed Under Seal)**.

13. Attached as Exhibit 11 is a true and correct copy of a document titled "ESI Performance & Bid Grid business – Consolidated" dated April 22, 2002. (MDL-HCS00018350) **(Filed Under Seal)**.

14. Attached as Exhibit 12 is a true and correct copy of a Revised ESI Contract dated February 9, 2001. (MDL-OBI00036972; pertinent page only) **(Filed Under Seal)**.

15. Attached as Exhibit 13 is a true and correct copy of the Deposition of Christine Poon dated November 30, 2004. (Pertinent pages only) **(Filed Under Seal)**.

16. Attached as Exhibit 14 is a true and correct copy of a document titled "Managed Care Group". (MDL-OMP0006741-42) **(Filed Under Seal)**.

17. Attached as Exhibit 15 is a true and correct copy of a document titled "Exhibit A-1 – Product Categories Within Basket of Products" dated April 11, 2001. (MDL-OBI00017372-73) **(Filed Under Seal)**.

Further the declarant sayeth not. I certify under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Executed this 17th day of December, 2004, at Seattle, Washington.

By /s/ Steve W. Berman
Steve W. Berman
HAGENS BERMAN LLP
1301 Fifth Avenue, Suite 2900
Seattle, WA 98101
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CERTIFICATE OF SERVICE

I hereby certify that I, Steve W. Berman, an attorney, caused a true and correct copy of the foregoing **DECLARATION OF STEVE W. BERMAN IN SUPPORT OF PLAINTIFFS' REPLY TO JOHNSON & JOHNSON GROUP's INDIVIDUAL MEMORANDUM IN OPPOSITION TO CLASS CERTIFICATION** to be electronically filed with the Court pursuant to the December 16, 2004 Order and to be delivered to all counsel of record by electronic service pursuant to Paragraph 11 of the Case Management Order No. 2, by sending on December 17, 2004 a copy to Verilaw Technologies for posting and notification to all parties.

By /s/ Steve W. Berman
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